IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 22235 of 2004

Between:

Y.Nagamma W/oY.Narayanappa
R/o.Yerravankapalli Village, Nallamada (M),
Anantapur Dist.

..... PETITIONER

AND

1 The Collector & Dist Magistrate,
Anantapur, Anantapur dist.
2 The Govt of A.P., rep by its Chief Secretary,
Secretary, Hyderabad.
3 The Superintendent Central Prison
Cherlapally, Ranga Reddy Dist.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Habeas Corpus under Article 226 of the Constitution of India directing the respondents to produce the detenu Sri Yerukala Kalyala Nagabhushanam S/o.Narayanappa now detained in central prison, Cherlapalli, R.R Dist before this Hon'ble court and he may be ordered to be released forthwith after declaring his detention as illegal and void.

Counsel for the Petitioner: MR.K.MAHESWARA RAO

Counsel for the Respondent No.: THE ADVOCATE GENERAL

The Court at the stage of admission made the following :

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ORDER: (per Sri BN.J)

The order of detention passed by the Collector and District Magistrate, Ananthapur dated 18.9.2004 with respect to Yerukala Kalyala Nagabhushanam has been challenged in this writ petition by the mother of the detenu. The order of detention has been passed in terms of Section 3(2) of the A.P. Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (hereinafter referred to as 'the Act').

Counter has been filed and we have heard the learned counsel for the parties.

In the grounds of detention there are three incidents mentioned relating to three cases, the first being Crime No.143 of 2000. This case was registered in the year 2000 and it is mentioned in the grounds of detention itself that the detenu had been acquitted in this case. Another case is registered in the year 2001 as Crime No.61 of 2001, which is still pending before the Court and the last one is a crime registered on 3.10.2003. The time gap between the last case and the order of detention is almost one year and therefore in our view it is stale. The gap between the last incident and the penultimate incident is almost two years. Since the grounds are not separable, in our view, the detention gets vitiated.

It is also contended that the learned Collector has at no place recorded her

satisfaction in terms of Section 3 of the Act that she was satisfied that in order to prevent the detenu from acting in any manner prejudicial to the maintenance of public order, it was necessary to make an order of detention. In para 5 of the grounds of detention, the District Magistrate has stated ' in the circumstances, PREVENTIVE DETENTION is only the precautionary measure to avert the situation and this preventive detention is always the precautionary measure and it is based on reasonable prognosis of your future behaviour based on your past conduct found in the light of the above circumstances. From the nature of these incidents, an inference can reasonably be drawn that you would be likely to repeat such acts unless detained under preventive detention.'

In the order of detention also, there is no such satisfaction recorded as contemplated by Section 3 of the Act. Unless the satisfaction is recorded on the basis of the material produced before the detaining authority, the detention order cannot be approved.

For these reasons, we allow this writ petition and quash the impugned order of detention. The respondents are directed to release the petitioner forthwith, if not required in any other case.

No costs.

(BILAL NAZKI,J)

Dated 20..12..2004

(DR.G.YETHIRAJULU,J)

msv.

To

1 The Collector & Dist Magistrate,
Anantapur, Anantapur dist.
2 The Chief Secretary , Govt of A.P., ,
Secretary, Hyderabad.
3 The Superintendent Central Prison
Cherlapally, Ranga Reddy Dist.

4 2 CCs to the Advocate General, High Court of A.P. Hyderabad

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5 2 CD copies.